

### **REMARKS**

This Application has been reviewed in light of the Office Action mailed November 29, 2006. Claims 1-22 are pending in this application and Claims 1, 2, 6, 9, 11-13, 17, 20 and 22 are rejected. Claims 3-5, 7, 8, 10, 14-16, 18, 19 and 21 are objected to. For at least the reasons provided below, Applicants respectfully request reconsideration and allowance of all pending Claims 1, 4-8, 11-15, and 19.

#### **Allowable Subject Matter**

Applicants note with appreciation the Examiner's indication that Claims 3-4, 7-8, 10, 14-15, 18-19 and 21 would be allowable if rewritten in independent form.

#### **Specification Objections**

The Examiner objects to the specification as containing various informalities. Applicants have amended the specification to refer to ring 16 as a counterclockwise ring and to refer to ring 18 as a clockwise ring. Furthermore, Applicants are submitting amended formal drawings to switch the reference numbers for rings 16 and 18 in Figures 1 and 3. Therefore, reconsideration and favorable action are requested. Applicants apologize for any inconvenience to the Examiner as the result of these typographical errors.

#### **Claim Objections**

The Examiner objects to Claims 2, 6, 9, 13, 17 and 20 because they recite the term "approximate." These claims have been amended to remove the term "approximate." The Examiner also objects to Claim 18 because of certain informalities. Applicants have amended this claim as suggested by the Examiner. Therefore, reconsideration and favorable action are requested.

#### **Section 103 Rejections**

The Office Action rejects Claims 1, 9, 12 and 20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,088,920 issued to Krishnaswamy et al. ("*Krishnaswamy*") in view of U.S. Publication No. 2002/0101632 issued to Meckler ("*Meckler*").

Claim 1 of the present application recites the following limitations:

A method for communicating optical traffic in a network comprising a plurality of network nodes, the method comprising:

receiving traffic to be added to the network at a network node, the network operable to communicate received traffic in an optical signal comprising one or more channels;

determining a data rate and one or more destination nodes of the received traffic;

assigning the received traffic to one or more of the channels of the optical signal based on the determined data rate and the one or more destination nodes;

configuring one or more of the network nodes to process the traffic contained in the assigned channels based on the data rate and the one or more destination nodes of the optical traffic; and

communicating the traffic through network in the assigned channels of the optical signal based on the determined data rate and the one or more destination nodes.

Independent Claim 12 recites similar, although not identical, limitations.

In order to establish a *prima facie* case of obviousness, three requirements must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge available to one skilled in the art, to modify a reference or combine multiple references; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or combination of references) must teach or suggest all of the claim limitations. M.P.E.P. § 2143. In the present case, a *prima facie* case of obviousness cannot be maintained because *Krishnaswamy* and *Meckler*, whether considered singly, in combination with one another, or in combination with information generally available to those of ordinary skill in the art at the time of the invention, fail to disclose all of the elements of the pending claims. Furthermore, there is also no motivation to combine the references in the manner suggested by the Examiner.

First, neither *Krishnaswamy* or *Meckler* discloses, teaches or suggests each and every limitation. For example, neither reference discloses, teaches or suggests “assignin g the received traffic to one or more of the channels of the optical signal based on the determined data rate and the one or more destination nodes.” As pointed out by the Examiner,

*Krishnaswamy* does not disclose assigning traffic to a channel of an optical signal based on a determined data rate, but instead argues that this limitation is disclosed in *Meckler*. However, *Meckler* also does not disclose this limitation. For a teaching of this limitation, the Office Action cites to Paragraph 171, but this passage discloses that information may be communicated by *different transmission systems or modes* based on the speed of the transmission. For example, voice calls may be communicated using an ordinary telephone network and streaming video may be communicated using a laser beam transmission system. Applicants respectfully submit that this does not disclose, teach or suggest assigning traffic to a *particular channel of an optical signal* based on a determined data rate. *Meckler* instead discloses using entirely different communication technologies to transmit traffic having different required speeds of transmission.

Furthermore, in addition to there being no disclosure of assigning traffic to a particular channel of an optical signal based on a data rate, there is also no suggestion or motivation in the references to used *both* the destination node and the data rate to assign the traffic to a channel. *Krishnaswamy* discloses a specific algorithm to assign traffic to particular wavelengths (e.g., see Col. 4, line 51 – Col. 5, line 21) and there is no suggestion or teaching as to how or if such a specific algorithm could be modified to incorporate the data rate of the traffic. Furthermore, *Meckler* does not even relate to assigning traffic to channels of an optical signal, so there is no motivation to combine any of its teachings with *Krishnaswamy*.

For at least these reasons, Applicants respectfully submit that Claim 1 is in condition for allowance. Furthermore, Claim 12 is also allowable for analogous reasons. Therefore, Applicants respectfully request reconsideration and allowance of Claims 1 and 12, as well as those claims that depend from these independent claims.

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The Office Action also rejects Claims 2 and 13 under 35 U.S.C. §103(a) as being unpatentable over *Krishnaswamy* in view *Meckler* and further in view of U.S. Patent No. 7,072,584 issued to Lichtman ("*Lichtman*"). Furthermore, the Office Action rejects Claims 6

and 17 under 35 U.S.C. §103(a) as being unpatentable over *Krishnaswamy* in view *Meckler* and further in view of U.S. Publication No. 2006/0153563 issued to Feuer et al. ("*Feuer*"). In addition, the Office Action rejects Claims 11 and 22 under 35 U.S.C. §103(a) as being unpatentable over *Krishnaswamy* in view *Meckler* and further in view of U.S. Publication No. 2004/0252688 issued to May et al. ("*May*"). Although Applicants believe that these claims include limitations that are not disclosed in the cited references, Applicants submit that Claims 2, 6, 11, 13, 17 and 22 are at least allowable because they depend from one of independent Claims 1 or 12, which Applicants believe to be in condition for allowance for the reasons provided above. For at least this reason, Applicants respectfully request reconsideration and allowance of Claims 2, 6, 11, 13, 17 and 22.

#### **New Claims**

Applicants have added new Claims 23 and 24. Applicants believe that the limitations of these claims are not disclosed, taught or suggested by the cited references. Furthermore, these claims depend from one of independent Claims 1 or 12, which Applicants believe to be in condition for allowance for the reasons provided above. For at least these reasons, Applicants respectfully request reconsideration and allowance of new Claims 23 and 24.

**CONCLUSION**

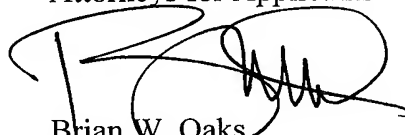
Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicants, at the Examiner's convenience at (214) 953-6986.

Please charge a fee in amount of \$100.00 for two additional dependent claims to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P. The Commissioner is also authorized to charge any other fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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